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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/690,590	10/18/2000	MINORU KATAYAMA	107612	2593

7590 12/13/2001

OLIFF & BERRIDGE PLC
P O BOX 19928
ALEXANDRIA, VA 22320

EXAMINER

CYGAN, MICHAEL T

ART UNIT	PAPER NUMBER
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2856

DATE MAILED: 12/13/2001

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/690,590

Applicant(s)

KATAYAMA ET AL.

Examiner

Michael Cygan

Art Unit

2856

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,4 and 6-12 is/are rejected.
- 7) ☒ Claim(s) 2,3 and 5 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 October 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities: the specification is replete with minor grammatical errors. Appropriate correction is required.

Drawings

2. Figures 17 and 18 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated (See Figures 6 and 7 of JP08-029153). This should further be noted in the Brief Description of the Drawings. See MPEP § 608.02(g).

Claim Objections

3. Claim 3 is objected to because of the following informalities: in line 1, "Claims 1" should appear as "Claim 1"; also, the "inclination adjustment means" of claim 1 is the same as the "swivel adjustment means" – these are disclosed as separate means in claim 2. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 4 and 7-12 are rejected under 35 U.S.C. 102(b) as being anticipated by WO 90/122~~7~~77 (Bielle). Bielle discloses the claimed method and leveling device; see Figure 7 and pages 19-20. Bielle discloses adjusting the orientation of a workpiece by measuring three points on the piece, calculating the difference in the Z-position of the points from a desired position, displaying the correction amount on a screen, and manually operating an adjustment means to correct the orientation. As shown in Figure 7, the device has a fulcrum [15], calculation, output, and adjustment means (pages 19-20).
5. Claims 4 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Teng (US 5,408,750). Teng discloses the claimed invention, an orientation adjusting method of a workpiece in a surface measurement machine (column 1, lines 1–16 and abstract), movable and rotatable in the X-Y plane (Figure 1), wherein the method comprises measuring positions of the workpiece relative the sensor [20] through an optical detector using lattice scales measuring positions at points along the workpiece, calculating orientation of the workpiece, displaying a correction amount,

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and operating manual adjustment means to rotate the workpiece. See column 1, line 45 through column 6, line 5.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Peter (Us 6,154,713). Peter discloses a surface texture measuring machine having controller [16] and measurement means [2,4,5,8,9,19,21,22]. Peter discloses the claimed invention except for the use of a manual displacement and adjustment means. However, it would have been obvious to one having ordinary skill in the art to use a manual means rather than an automatic means for displacement and adjustment since the examiner takes Official Notice of the equivalence of manual and automatic means in the positioning and measuring arts, and the use of either means would have been obvious to one having ordinary skill in the art at the time the invention was made.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Workpiece orientational correction is disclosed by Baker (US 1,823,719) and Krause (US 3,499,227). Workpiece inclinational correction is disclosed by Potter (US 3,286,353), Konno (US 5,253,429), and Numamoto (JP 57028206A).


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Cygan whose telephone number is 703-305-0846. The examiner can normally be reached on 8:30-6 M-Th, alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron Williams can be reached on 703-305-4705. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7722 for regular communications and 703-308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-3431.

MTG

mtc
November 28, 2001


HEZRON WILLIAMS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800